

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MIGUEL ORDONEZ,	:
Plaintiff,	:
v.	: Civil Action No. 03-169J
JOHN YOST, WARDEN, F.C.I.	:
LORETTO, <u>et al.</u> ,	:
Defendants	:

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

On July 19, 2006, the Magistrate Judge filed a Report and Recommendation, docket no. 25, recommending that the motion to dismiss or for summary judgment filed by defendants be granted.

The parties were notified that pursuant to 28 U.S.C. § 636(b)(1), they had ten days to serve and file written objections to the Report and Recommendation. Defendants re-submitted their brief to cure a glitch in the CM/ECF recording of their first brief, see docket no. 29, and plaintiff filed timely objections, docket no. 30. Plaintiff's claim of a serious medical need was accepted by the Magistrate Judge, but plaintiff does not dispute, either in his brief or in his objections, the Magistrate Judge's finding that plaintiff has not sought any medical care for his knee since before his complaint was filed in 2003. Plaintiff's claim that there nevertheless is an genuine issue of fact as to

defendants' deliberate indifference to his knee injury is meritless.

Upon de novo review of the record and the Report and Recommendation, and the objections thereto, the following order is entered:

AND NOW, this 9th day of August, 2006, it is

ORDERED that the motion to dismiss is granted as to defendants Heron and Yost, and summary judgment is entered in favor of all defendants. The Report and Recommendation is adopted as the opinion of the Court. The Clerk shall mark this matter closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to:

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